

Appl. No. : 09/802,397
Filed : March 9, 2001

REMARKS

Claims 1, 5, 38 and 52 have been amended. Support for the amendments is found in the existing claims and the specification as discussed below. Accordingly, the amendments do not constitute the addition of new matter. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

Previous grounds of rejection

Applicants gratefully acknowledge the withdrawal of all previous grounds of rejection.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 1, 5, 7, 9, 11, 13, 15, 17, 21, 23, 29, 38, 51, and 52 are rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which is not described in the specification in such a way so as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Office Action states that the specification provides insufficient evidence that a DC hybrid comprising a proliferating DC would be capable of producing an anti-tumor response.

This ground of rejection is addressed by Applicants' amendment. The Examiner's point is well taken. It is more correctly stated that the DC precursors are proliferating. Claims 1 and 38 have been amended accordingly. Support is found in the specification at page 66, lines 13-15 (paragraph 184 of published application).

Applicants continue to maintain that bone marrow, blood and lymph inherently contain a high number of proliferating DC precursors or intermediates between monocytes and DCs that are proliferating. See the Moser I Declaration, presented with the response of November 2003 at page 4, paragraph 5 of section 3. The Moser II Declaration also teaches proliferating progenitors (see Moser II Declaration presented with the response of February 2005 at paragraphs 2 and 3).

In view of Applicants' amendments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

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Claims 1, 5, 7, 9, 11, 13, 15, 17, 21, 23, 29, 38, 51, and 52 are rejected under 35 U.S.C. § 112, first paragraph as the specification does not contain a written description of the claimed invention, in that the disclosure does not reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention at the time that the application was filed.

The Examiner asserts that the specification and the claims as originally filed do not provide support for the invention as now claimed, specifically, “A) A method employing a hybrid...prepared by fusing tumor cells to proliferating dendritic cells... or a method employing precursors. (claim 1).”

The previous amendment regarding cell proliferation has been corrected as discussed above. Support is found in the specification at page 66, lines 13-15 (paragraph 184 of published application).

Although the Office Action posits that support is insufficient as it is based upon a single experiment, the discussion at page 66 is not limited to discussion of a single experiment. The paragraph compares results from spleen with results from bone marrow and broadly teaches that “fusion partners should be proliferating cells or dendritic cells at a more immature stage.” The teaching is not specific to any single hybrid. Accordingly, Applicants assert that the present claim language is fully supported.

Regarding support for a method employing precursors, this point is also addressed by amendment. Applicants have amended claims 1 and 38 to specify that the precursors are “proliferating dendritic cell precursors.” Support for the amendment is found throughout the specification. See for example, specifically in Example 8 where precursor DLCs are cultured in the presence of GM-CSF and Example 12 at page 53, lines 12-14.

In view of Applicants’ amendments and arguments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 23 and 25-41 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear why claims 23 and 25-41 are rejected. Applicants understand that this rejection should apply to claims 5 and 52 (and claims 7 and 9 as they depend from claim 5).

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Claim 5 has been amended to correct antecedent basis.

Claim 52 has been amended to clarify the subject matter claimed. The claim is intended to cover embodiments where the hybrid is a hybridoma. Claim 52 has been amended to where the tumor cell is immortal. Support is found specifically in the specification at page 24, lines 15-18 (paragraph 0078 of the published application). In view of Applicants' amendments and arguments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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